IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 693 OF 2006
IN
FIRST APPEAL NO. 845 OF 2006

L. Shiva Reddy ... Applicant

V/s

The Municipal Corpn. of Gr. Bombay. ... Respondent

Ms. Geeta Shastri for the applicant.

Ms. Nisha Dabhade for the respondent.

CORAM: P.V. KAKADE, J.

DATED: 7TH MARCH, 2006

P.C.:

1. This is an application seeking modification of the order dated 9.9.2004 passed by this Court while disposing of the first appeal.

2. Heard both sides.

3. The first appeal pertains to hawkers regarding which the issue is still pending in the Apex Court for adjudication. In view of this position, the appellant-applicant was directed to file an undertaking

to the effect that he shall shift his business from the address of the suit property as and when he will receive letter from the office of the respondent to shift his business to any other place and on the basis of said undertaking the appeal was disposed of.

4. It appears from the record that thereafter, instead of issuing letter, the respondent Corporation authorities straight-way removed the stall as well as the goods therein and, therefore, contempt petition was filed against the Corporation authorities by the appellant-applicant. Finally, the contempt petition was dismissed on technical ground in the sense that there was no particular direction to the Municipal authorities to act in a particular manner and, therefore, it was held that there was no contempt. On this back ground, the present application is filed seeking modification of the order dated 9.9.2004 seeking direction to the respondent not to take any action in respect of the business of selling fruits, etc. on the wooden stall admeasuring 1 mtr. x 1 1/2 mtr. located in the Crowford Market, Mumbai - 400 001, till the respondent issues shifting letter to the applicant.

5. In the affidavit in reply, the concerned Municipal

authorities have denied that they have removed the stall and the goods of the applicant petitioner as alleged. Therefore, it is clear that the stand of the Municipal authorities is that they have not removed or shifted the stall and the goods of the applicant from its location in Crowford Market.

6. In view of this position, the application deserves to be allowed and is made absolute in terms of prayer clause (a) with clarification that the stall shall be removed by the applicant as soon as shifting letter is received by him from the Municipal authorities as per the undertaking furnished to this Court in the said appeal by the applicant-appellant.

With this direction, the application stands disposed of with no order as to costs.

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